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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,)	
	)	DECLARATION OF TIMOTHY J.
vs.	)	HOGAN IN SUPPORT OF
	)	PLAINTIFF WAYNE BERRY'S
HAWAIIAN EXPRESS SERVICE,	)	MOTION TO ALTER OR AMEND
INC., a California corporation; et al.	)	SECOND AMENDED JUDGMENT
	)	ENTERED ON MARCH 16, 2006
Defendants.	)	AND TO DELAY TIME FOR
	)	FILING AN APPEAL PENDING
	)	RESOLUTION OF MOTION FOR
	)	ATTORNEYS' FEES AND FULL
	)	COSTS; EXHIBITS "1" AND "2";
	)	CERTIFICATE OF SERVICE
_____)	

**DECLARATION OF TIMOTHY J. HOGAN IN SUPPORT
OF PLAINTIFF WAYNE BERRY'S MOTION TO ALTER OR AMEND
SECOND JUDGMENT ENTERED ON MARCH 16, 2006 AND TO DELAY
TIME FOR FILING AN APPEAL PENDING RESOLUTION OF MOTION
FOR ATTORNEYS' FEES AND FULL COSTS**

I, TIMOTHY J. HOGAN, am an attorney licensed to practice before all the courts of the State of Hawaii and I make this declaration under penalty of perjury. All the statements herein are true and correct to the best of my knowledge, information and belief. If called upon to testify regarding the matters stated herein, I am competent and willing and able to testify.

1. Attached hereto as Exhibit "1" is a true and correct copy of the Second Amended Judgment that was entered in this case on March 16, 2006.

2. Attached hereto as Exhibit "2" is a true and correct Copy of the Court's June 27, 2005 Order Granting in Part and Denying in Part Motion for Summary Judgment.

3. I have conducted a search of the Fleming Logistics department files that were turned over regarding in the Guidance materials and there are files contained in these records that evidence personal files that appear to be Ms. Purdy's that go back as far as January 2001. Mr. Berry is prepared to stipulate to the dismissal of Ms. Purdy under reasonable terms and upon some credible showing of how these files came to be resident on the Fleming Logistics computers.

I hereby declare under penalty of perjury that the foregoing is true and

accurate to the best of my knowledge and belief.

DATED: Honolulu, Hawai'i, March 21, 2006.

/s/ Timothy J. Hogan

TIMOTHY J. HOGAN

Attorney for Plaintiff

WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,)	
	)	CERTIFICATE OF SERVICE
vs.)	
)	
HAWAIIAN EXPRESS SERVICE,)	
INC., a California corporation; et al.)	
)	
Defendants.)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on the dates and by the methods of service noted below, a true and correct copy of the (1) Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 and to Delay Time for Filing an Appeal Pending Resolution of Motion for Attorneys' Fees and Full Costs; (2) Plaintiff Wayne Berry's Memorandum in Support of Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 and to Delay Time for Filing an Appeal Pending Resolution of Motion for Attorneys' Fees and Full Costs; (3) Declaration of Timothy J. Hogan in Support of Plaintiff Wayne Berry's Motion to Alter or Amend Second Amended Judgment Entered on March 16, 2006 and to Delay Time for Filing an Appeal Pending

Resolution of Motion for Attorneys' Fees and Full Costs; Exhibits "1" and "2";
Certificate of Service was served on the following at their last known addresses:

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DATED: Honolulu, Hawai'i, March 21, 2006.

/s/ Timothy J. Hogan

TIMOTHY J. HOGAN

Attorney for Plaintiff WAYNE BERRY